



Reprinted  
March 20, 2007

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## ENGROSSED SENATE BILL No. 165

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DIGEST OF SB 165 (Updated March 19, 2007 2:19 pm - DI 116)

**Citations Affected:** IC 6-3.1; noncode.

**Synopsis:** Income tax credits. Establishes a community investment tax credit against state tax liability for investments that: (1) qualify for a federal new market tax credit; and (2) are made in a community development entity that agrees to reinvest 80% of its total assets in low income community businesses in Indiana. Provides that a taxpayer is not entitled to a venture capital investment tax credit for providing investment capital after December 31, 2012. (Current law provides that a taxpayer is not entitled to a credit for providing investment capital after December 31, 2008.) Repeals the expiration date for the Hoosier business investment tax credit.

**Effective:** July 1, 2007; January 1, 2008.

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**Ford, Simpson, Landske, Zakas**  
(HOUSE SPONSORS — ORENTLICHER, WOLKINS, MAYS, TURNER)

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January 8, 2007, read first time and referred to Committee on Tax and Fiscal Policy.  
January 9, 2007, amended, reported favorably — Do Pass.  
January 16, 2007, read second time, ordered engrossed.  
January 17, 2007, engrossed.  
January 18, 2007, read third time, passed. Yeas 43, nays 0.

HOUSE ACTION

February 26, 2007, read first time and referred to Committee on Small Business and Economic Development.  
February 28, 2007, reported — Do Pass. Recommitted to Committee on Ways and Means.  
March 15, 2007, amended, reported — Do Pass.  
March 19, 2007, read second time, amended, ordered engrossed.

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ES 165—LS 6224/DI 114+



Reprinted  
March 20, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 165

A BILL FOR AN ACT to amend the Indiana Code concerning  
taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-3.1-24-9, AS AMENDED BY P.L.193-2005,  
2       SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2007]: Sec. 9. (a) The total amount of tax credits that may be  
4       allowed under this chapter in a particular calendar year for qualified  
5       investment capital provided during that calendar year may not exceed  
6       twelve million five hundred thousand dollars (\$12,500,000). The  
7       Indiana economic development corporation may not certify a proposed  
8       investment plan under section 12.5 of this chapter if the proposed  
9       investment would result in the total amount of the tax credits certified  
10      for the calendar year exceeding twelve million five hundred thousand  
11      dollars (\$12,500,000). An amount of an unused credit carried over by  
12      a taxpayer from a previous calendar year may not be considered in  
13      determining the amount of proposed investments that the Indiana  
14      economic development corporation may certify under this chapter.  
15      (b) Notwithstanding the other provisions of this chapter, a taxpayer  
16      is not entitled to a credit for providing qualified investment capital to  
17      a qualified Indiana business after December 31, ~~2008~~ **2012**. However,

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1 this subsection may not be construed to prevent a taxpayer from  
 2 carrying over to a taxable year beginning after December 31, ~~2008~~,  
 3 **2012**, an unused tax credit attributable to an investment occurring  
 4 before January 1, ~~2009~~ **2013**.

5 SECTION 2. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE  
 6 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 7 JANUARY 1, 2008]:

8 **Chapter 31. Community Investment Tax Credit**

9 **Sec. 1. As used in this chapter, "affiliate" means the following:**

10 (1) A parent entity that owns a controlling interest in a  
 11 federally qualified community development entity.

12 (2) Any subsidiary of a parent entity described in subdivision  
 13 (1) that qualifies as a federally qualified community  
 14 development entity.

15 **Sec. 2. As used in this chapter, "applicable percentage" means**  
 16 **five percent (5%) for each credit allowance date.**

17 **Sec. 3. As used in this chapter, "certified development entity"**  
 18 **refers to a federally qualified community development entity that**  
 19 **is certified by the corporation as a certified development entity**  
 20 **under section 24 of this chapter.**

21 **Sec. 4. As used in this chapter, "corporation" refers to the**  
 22 **Indiana economic development corporation.**

23 **Sec. 5. As used in this chapter, "credit allowance date" means:**

24 (1) the date the corporation certifies a federally qualified  
 25 equity investment as a state credit; and

26 (2) the anniversary of the date described in subdivision (1) in  
 27 each calendar year remaining in the certified development  
 28 entity's federal credit period.

29 **Sec. 6. As used in this chapter, "department" refers to the**  
 30 **department of state revenue.**

31 **Sec. 7. As used in this chapter, "eligible business" means a**  
 32 **business that:**

33 (1) qualifies as a low income community business; and

34 (2) is located in Indiana.

35 **Sec. 8. As used in this chapter, "federal credit" refers to a new**  
 36 **markets tax credit granted under Section 45D of the Internal**  
 37 **Revenue Code against federal income tax liability.**

38 **Sec. 9. As used in this chapter, "federally qualified community**  
 39 **development entity" refers to a qualified community development**  
 40 **entity (as defined in Section 45D of the Internal Revenue Code)**  
 41 **that has an allocation of federal credits.**

42 **Sec. 10. As used in this chapter, "federally qualified equity**

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investment" refers to a qualified equity investment (as defined in Section 45D of the Internal Revenue Code) that qualifies a federal taxpayer for a federal credit.

Sec. 11. As used in this chapter, "holder", with respect to a credit allowance date, refers to one (1) of the following:

(1) The taxpayer or pass through entity that makes the original state certified investment, if the taxpayer or pass through entity owns the state certified investment on a credit allowance date.

(2) A subsequent taxpayer or pass through entity that owns the state certified investment on a credit allowance date.

Sec. 12. As used in this chapter, "low income community business" refers to a business that qualifies as a qualified active low-income community business (as defined in Section 45D of the Internal Revenue Code).

Sec. 13. As used in this chapter, "pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership;

that is not subject to state tax liability.

Sec. 14. As used in this chapter, "reinvestment in low income communities in Indiana" refers to the use of the assets of a federally qualified community development entity for:

(1) a capital or an equity investment or loan to an eligible business;

(2) an equity investment in or a loan to a federally qualified community development entity that is located in Indiana;

(3) the delivery of financial counseling or other services to a business in or resident of Indiana; or

(4) a purchase from another federally qualified community development entity of loans that are made to an eligible business;

that qualifies as a qualified low-income community investment (as defined in Section 45D of the Internal Revenue Code).

Sec. 15. As used in this chapter, "state certified investment" refers to a federally qualified equity investment that is certified by the corporation as eligible for a state credit.

Sec. 16. As used in this chapter, "state credit" refers to a credit granted under this chapter against state tax liability.

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1        **Sec. 17. As used in this chapter, "state tax liability" means a**  
 2        **taxpayer's total tax liability that is incurred under:**

- 3            (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);  
 4            (2) IC 27-1-18-2 (the insurance premiums tax); and  
 5            (3) IC 6-5.5 (the financial institutions tax);

6        **as computed after the application of the credits that under**  
 7        **IC 6-3.1-1-2 are to be applied before the credit provided by this**  
 8        **chapter.**

9        **Sec. 18. As used in this chapter, "taxpayer" means an**  
 10        **individual, a corporation, a partnership, or another entity that has**  
 11        **state tax liability.**

12        **Sec. 19. Subject to this chapter, a holder that:**

- 13            (1) holds a state certified investment on a credit allowance  
 14            date; and  
 15            (2) does not receive another credit under any other law  
 16            against state tax liability for the same state certified  
 17            investment;

18        **is entitled to a community investment tax credit in a taxable year**  
 19        **in which a credit allowance date occurs against the holder's state**  
 20        **tax liability for the taxable year.**

21        **Sec. 20. The amount of a state credit in a taxable year is equal**  
 22        **to the amount determined under STEP TWO of the following**  
 23        **formula:**

24            **STEP ONE: Determine the amount of the state certified**  
 25            **investment that is held by a taxpayer on the credit allowance**  
 26            **date in the taxable year.**

27            **STEP TWO: Multiply the STEP ONE amount by the**  
 28            **applicable percentage for the credit allowance date.**

29        **Sec. 21. (a) If:**

- 30            (1) a pass through entity does not have state tax liability  
 31            against which the state credit may be applied; and  
 32            (2) the pass through entity would be eligible for a state credit  
 33            if the pass through entity were a taxpayer;

34        **a shareholder, partner, or member of the pass through entity is**  
 35        **entitled to a state credit under this chapter.**

36        **(b) Subject to this chapter, the amount of the state credit to**  
 37        **which a shareholder, partner, or member of a pass through entity**  
 38        **is entitled is the result determined under STEP TWO of the**  
 39        **following formula:**

40            **STEP ONE: Determine the amount of a state credit for the**  
 41            **pass through entity for the taxable year as if the pass through**  
 42            **entity were a taxpayer with state tax liability at least equal to**

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the amount of the credit.

**STEP TWO:** Determine the STEP ONE result multiplied by the percentage of the pass through entity's allocable share of federal credits to which the shareholder, partner, or member is entitled, as determined for federal income tax purposes.

**Sec. 22.** (a) If the amount of a state credit for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. The amount of the state credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a state credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of an unused state credit.

**Sec. 23.** To apply a state credit against the taxpayer's state tax liability, a taxpayer must claim the state credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. A taxpayer claiming a state credit shall submit to the department a copy of the certification letter issued by the corporation under section 25 of this chapter for the state certified investment that entitles the taxpayer to a state credit. In addition, the taxpayer shall submit to the department any additional information that the department determines is necessary for the department to determine whether the taxpayer is eligible for the state credit.

**Sec. 24.** (a) The corporation shall establish a program to certify federally qualified community investment entities as certified development entities.

(b) An applicant must apply to the corporation for certification in the manner and on the certified development entity application form prescribed by the corporation.

(c) The corporation shall certify an applicant as a certified development entity only if the:

- (1) applicant is a federally qualified community development entity;
- (2) applicant and its affiliates by agreement with the corporation commit to continue to loan to or otherwise reinvest in eligible businesses for a period of at least seven (7) years concurrent with the federal credit period; and
- (3) agreement with the corporation commits to invest at least eighty percent (80%) of the applicant's aggregate gross assets (including reserves) in eligible businesses.

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1       **Sec. 25. (a) The corporation shall establish a program to certify**  
 2       **federally qualified equity investments as state certified**  
 3       **investments.**

4       **(b) The corporation may certify a federally qualified equity**  
 5       **investment as a state certified investment only if:**

6               **(1) a certified development entity designates the federally**  
 7               **qualified equity investment for a state credit in a manner and**  
 8               **on the designation form prescribed by the president of the**  
 9               **corporation; and**

10              **(2) the certified development entity that designates the**  
 11              **qualified equity investment for a state credit and its affiliates**  
 12              **are in compliance with the agreements entered into by the**  
 13              **certified development entity and its affiliates under section 24**  
 14              **of this chapter.**

15       **(c) The certification of a federally qualified equity investment**  
 16       **under this section applies only to credit allowance dates that occur**  
 17       **after the certification is made by the corporation.**

18       **(d) The corporation shall issue a letter to the certified**  
 19       **development entity indicating whether the corporation certifies the**  
 20       **federally qualified equity investment as a state certified**  
 21       **investment.**

22       **Sec. 26. (a) An action by the federal government under Section**  
 23       **45D of the Internal Revenue Code to disallow or recapture a**  
 24       **federal credit for a qualified equity investment terminates the state**  
 25       **credit only to the extent that the corporation disallows or**  
 26       **recaptures the state credit under this section.**

27       **(b) A holder of a state certified investment shall notify the**  
 28       **corporation if the holder's federal credit for the state certified**  
 29       **investment is disallowed or recaptured.**

30       **(c) If the federal credit granted for a state certified investment**  
 31       **is disallowed or recaptured, the corporation may:**

32               **(1) disallow the use of a part of the related unused state**  
 33               **credit;**

34               **(2) recapture a part of the related state credit that has been**  
 35               **applied to the state tax liability of a taxpayer; or**

36               **(3) both disallow under subdivision (1) and recapture under**  
 37               **subdivision (2) the state credit.**

38       **The maximum percentage of the state credit that may be**  
 39       **disallowed and recaptured under this section is the percentage of**  
 40       **the total federal credit that is disallowed or recaptured under**  
 41       **Section 45D of the Internal Revenue Code.**

42       **(d) The corporation shall submit a copy of the corporation's**

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determination under this section to the department.

**Sec. 27. (a) Before April 1 each year:**

(1) after the initial year that a federally qualified community development entity is certified as a certified development entity; and

(2) through the seventh year after the last credit allowance date for the certified development entity's last state certified investment;

the certified development entity shall submit a report to the corporation on the certified development entity's state credit program under this chapter.

(b) The report required by this section is the annual report of the certified development entity for that year that is filed for federal reporting purposes with the community development financial institutions fund. The corporation may require additional information in its discretion, including the following:

(1) Information on the number and amount of state certified investments and federally qualified equity investments made by the entity in Indiana.

(2) A description of each eligible business receiving an investment attributable to a state certified investment.

(3) An update on the financial status of the eligible businesses.

(4) An update on new jobs, increasing wages, total investment, and revenue impact derived from the state certified investment.

(5) The sum of the state credits designated by the certified development entity under this chapter.

(c) The corporation shall submit a copy of the report required by this section to the executive director of the legislative services agency. The report must be in an electronic format under IC 5-14-6.

**Sec. 28. Before November 1 in each state fiscal year beginning in an odd-numbered year, the corporation shall provide an evaluation of the state credit program. The evaluation must include an assessment of the:**

(1) effectiveness of each certified development entity that receives a state certified investment in creating new jobs and increasing wages in Indiana; and

(2) revenue impact of the certified development entity's state credit program.

The evaluation may include a review of the practices and experiences of other states with similar programs or other similar

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1 federal programs. The corporation shall submit the evaluation to  
 2 the governor and the executive director of the legislative services  
 3 agency. The report submitted to the executive director of the  
 4 legislative services agency must be in an electronic format under  
 5 IC 5-14-6.

6 Sec. 29. The corporation may adopt rules under IC 4-22-2 to  
 7 carry out the purposes of this chapter, including rules to do the  
 8 following:

9 (1) Facilitate the transfer of state credits earned under this  
 10 chapter.

11 (2) Certify an investment for a state credit before the  
 12 investment has received final approval for a federal credit  
 13 subject to the condition that the state credit is disallowed if  
 14 the federal credit is not granted.

15 SECTION 3. IC 6-3.1-26-26 IS REPEALED [EFFECTIVE JULY  
 16 1, 2007].

17 SECTION 4. [EFFECTIVE JANUARY 1, 2008] (a) The definitions  
 18 in IC 6-3.1-31, as added by this act, apply throughout this  
 19 SECTION.

20 (b) IC 6-3.1-31, as added by this act, applies only to:

21 (1) federally qualified equity investments initially made; and

22 (2) taxable years beginning;  
 23 after December 31, 2007.

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## SENATE MOTION

Madam President: I move that Senator Landske be added as coauthor of Senate Bill 165.

FORD

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 COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 165, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, reset in roman "(a)".

Page 1, reset in roman lines 15 through 16.

Page 1, line 17, reset in roman "a qualified Indiana business after December 31,".

Page 1, line 17, after "2008." insert "**2012.**".

Page 1, line 17, reset in roman "However, this".

Page 2, reset in roman line 1.

Page 2, line 2, reset in roman "over to a taxable year beginning after December 31,".

Page 2, line 2, after "2008," insert "**2012.**".

Page 2, line 2, reset in roman "an unused".

Page 2, reset in roman line 3.

Page 2, line 4, after "2009." insert "**2013.**".

and when so amended that said bill do pass.

(Reference is to SB 165 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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 SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Engrossed Senate Bill 165.

FORD

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Small Business and Economic Development, to which was referred Senate Bill 165, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ORENTLICHER, Chair

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 165, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, after line 4, begin a new paragraph and insert:

"SECTION 2. IC 6-3.1-26-26 IS REPEALED [EFFECTIVE JULY 1, 2007].".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to ESB 165 as printed March 1, 2007.)

CRAWFORD, Chair

Committee Vote: yeas 19, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 165 be amended to read as follows:

Page 2, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 2. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

**Chapter 31. Community Investment Tax Credit**

**Sec. 1. As used in this chapter, "affiliate" means the following:**

- (1) A parent entity that owns a controlling interest in a federally qualified community development entity.
- (2) Any subsidiary of a parent entity described in subdivision

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(1) that qualifies as a federally qualified community development entity.

Sec. 2. As used in this chapter, "applicable percentage" means five percent (5%) for each credit allowance date.

Sec. 3. As used in this chapter, "certified development entity" refers to a federally qualified community development entity that is certified by the corporation as a certified development entity under section 24 of this chapter.

Sec. 4. As used in this chapter, "corporation" refers to the Indiana economic development corporation.

Sec. 5. As used in this chapter, "credit allowance date" means:

- (1) the date the corporation certifies a federally qualified equity investment as a state credit; and
- (2) the anniversary of the date described in subdivision (1) in each calendar year remaining in the certified development entity's federal credit period.

Sec. 6. As used in this chapter, "department" refers to the department of state revenue.

Sec. 7. As used in this chapter, "eligible business" means a business that:

- (1) qualifies as a low income community business; and
- (2) is located in Indiana.

Sec. 8. As used in this chapter, "federal credit" refers to a new markets tax credit granted under Section 45D of the Internal Revenue Code against federal income tax liability.

Sec. 9. As used in this chapter, "federally qualified community development entity" refers to a qualified community development entity (as defined in Section 45D of the Internal Revenue Code) that has an allocation of federal credits.

Sec. 10. As used in this chapter, "federally qualified equity investment" refers to a qualified equity investment (as defined in Section 45D of the Internal Revenue Code) that qualifies a federal taxpayer for a federal credit.

Sec. 11. As used in this chapter, "holder", with respect to a credit allowance date, refers to one (1) of the following:

- (1) The taxpayer or pass through entity that makes the original state certified investment, if the taxpayer or pass through entity owns the state certified investment on a credit allowance date.
- (2) A subsequent taxpayer or pass through entity that owns the state certified investment on a credit allowance date.

Sec. 12. As used in this chapter, "low income community

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**business"** refers to a business that qualifies as a qualified active low-income community business (as defined in Section 45D of the Internal Revenue Code).

**Sec. 13.** As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership;

that is not subject to state tax liability.

**Sec. 14.** As used in this chapter, "reinvestment in low income communities in Indiana" refers to the use of the assets of a federally qualified community development entity for:

- (1) a capital or an equity investment or loan to an eligible business;
- (2) an equity investment in or a loan to a federally qualified community development entity that is located in Indiana;
- (3) the delivery of financial counseling or other services to a business in or resident of Indiana; or
- (4) a purchase from another federally qualified community development entity of loans that are made to an eligible business;

that qualifies as a qualified low-income community investment (as defined in Section 45D of the Internal Revenue Code).

**Sec. 15.** As used in this chapter, "state certified investment" refers to a federally qualified equity investment that is certified by the corporation as eligible for a state credit.

**Sec. 16.** As used in this chapter, "state credit" refers to a credit granted under this chapter against state tax liability.

**Sec. 17.** As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

**Sec. 18.** As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or another entity that has state tax liability.

**Sec. 19.** Subject to this chapter, a holder that:

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(1) holds a state certified investment on a credit allowance date; and

(2) does not receive another credit under any other law against state tax liability for the same state certified investment;

is entitled to a community investment tax credit in a taxable year in which a credit allowance date occurs against the holder's state tax liability for the taxable year.

**Sec. 20.** The amount of a state credit in a taxable year is equal to the amount determined under STEP TWO of the following formula:

**STEP ONE:** Determine the amount of the state certified investment that is held by a taxpayer on the credit allowance date in the taxable year.

**STEP TWO:** Multiply the STEP ONE amount by the applicable percentage for the credit allowance date.

**Sec. 21. (a) If:**

(1) a pass through entity does not have state tax liability against which the state credit may be applied; and

(2) the pass through entity would be eligible for a state credit if the pass through entity were a taxpayer;

a shareholder, partner, or member of the pass through entity is entitled to a state credit under this chapter.

(b) Subject to this chapter, the amount of the state credit to which a shareholder, partner, or member of a pass through entity is entitled is the result determined under STEP TWO of the following formula:

**STEP ONE:** Determine the amount of a state credit for the pass through entity for the taxable year as if the pass through entity were a taxpayer with state tax liability at least equal to the amount of the credit.

**STEP TWO:** Determine the STEP ONE result multiplied by the percentage of the pass through entity's allocable share of federal credits to which the shareholder, partner, or member is entitled, as determined for federal income tax purposes.

**Sec. 22. (a)** If the amount of a state credit for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. The amount of the state credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a state credit under this chapter for any subsequent taxable year.

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(b) A taxpayer is not entitled to a carryback or refund of an unused state credit.

**Sec. 23.** To apply a state credit against the taxpayer's state tax liability, a taxpayer must claim the state credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. A taxpayer claiming a state credit shall submit to the department a copy of the certification letter issued by the corporation under section 25 of this chapter for the state certified investment that entitles the taxpayer to a state credit. In addition, the taxpayer shall submit to the department any additional information that the department determines is necessary for the department to determine whether the taxpayer is eligible for the state credit.

**Sec. 24. (a)** The corporation shall establish a program to certify federally qualified community investment entities as certified development entities.

(b) An applicant must apply to the corporation for certification in the manner and on the certified development entity application form prescribed by the corporation.

(c) The corporation shall certify an applicant as a certified development entity only if the:

- (1) applicant is a federally qualified community development entity;
- (2) applicant and its affiliates by agreement with the corporation commit to continue to loan to or otherwise reinvest in eligible businesses for a period of at least seven (7) years concurrent with the federal credit period; and
- (3) agreement with the corporation commits to invest at least eighty percent (80%) of the applicant's aggregate gross assets (including reserves) in eligible businesses.

**Sec. 25. (a)** The corporation shall establish a program to certify federally qualified equity investments as state certified investments.

(b) The corporation may certify a federally qualified equity investment as a state certified investment only if:

- (1) a certified development entity designates the federally qualified equity investment for a state credit in a manner and on the designation form prescribed by the president of the corporation; and
- (2) the certified development entity that designates the qualified equity investment for a state credit and its affiliates are in compliance with the agreements entered into by the

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certified development entity and its affiliates under section 24 of this chapter.

(c) The certification of a federally qualified equity investment under this section applies only to credit allowance dates that occur after the certification is made by the corporation.

(d) The corporation shall issue a letter to the certified development entity indicating whether the corporation certifies the federally qualified equity investment as a state certified investment.

Sec. 26. (a) An action by the federal government under Section 45D of the Internal Revenue Code to disallow or recapture a federal credit for a qualified equity investment terminates the state credit only to the extent that the corporation disallows or recaptures the state credit under this section.

(b) A holder of a state certified investment shall notify the corporation if the holder's federal credit for the state certified investment is disallowed or recaptured.

(c) If the federal credit granted for a state certified investment is disallowed or recaptured, the corporation may:

- (1) disallow the use of a part of the related unused state credit;
- (2) recapture a part of the related state credit that has been applied to the state tax liability of a taxpayer; or
- (3) both disallow under subdivision (1) and recapture under subdivision (2) the state credit.

The maximum percentage of the state credit that may be disallowed and recaptured under this section is the percentage of the total federal credit that is disallowed or recaptured under Section 45D of the Internal Revenue Code.

(d) The corporation shall submit a copy of the corporation's determination under this section to the department.

Sec. 27. (a) Before April 1 each year:

- (1) after the initial year that a federally qualified community development entity is certified as a certified development entity; and
- (2) through the seventh year after the last credit allowance date for the certified development entity's last state certified investment;

the certified development entity shall submit a report to the corporation on the certified development entity's state credit program under this chapter.

(b) The report required by this section is the annual report of

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the certified development entity for that year that is filed for federal reporting purposes with the community development financial institutions fund. The corporation may require additional information in its discretion, including the following:

- (1) Information on the number and amount of state certified investments and federally qualified equity investments made by the entity in Indiana.
- (2) A description of each eligible business receiving an investment attributable to a state certified investment.
- (3) An update on the financial status of the eligible businesses.
- (4) An update on new jobs, increasing wages, total investment, and revenue impact derived from the state certified investment.
- (5) The sum of the state credits designated by the certified development entity under this chapter.

(c) The corporation shall submit a copy of the report required by this section to the executive director of the legislative services agency. The report must be in an electronic format under IC 5-14-6.

Sec. 28. Before November 1 in each state fiscal year beginning in an odd-numbered year, the corporation shall provide an evaluation of the state credit program. The evaluation must include an assessment of the:

- (1) effectiveness of each certified development entity that receives a state certified investment in creating new jobs and increasing wages in Indiana; and
- (2) revenue impact of the certified development entity's state credit program.

The evaluation may include a review of the practices and experiences of other states with similar programs or other similar federal programs. The corporation shall submit the evaluation to the governor and the executive director of the legislative services agency. The report submitted to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.

Sec. 29. The corporation may adopt rules under IC 4-22-2 to carry out the purposes of this chapter, including rules to do the following:

- (1) Facilitate the transfer of state credits earned under this chapter.
- (2) Certify an investment for a state credit before the investment has received final approval for a federal credit

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**subject to the condition that the state credit is disallowed if the federal credit is not granted."**

Page 2, after line 6, begin a new paragraph and insert:

**"SECTION 4. [EFFECTIVE JANUARY 1, 2008] (a) The definitions in IC 6-3.1-31, as added by this act, apply throughout this SECTION.**

**(b) IC 6-3.1-31, as added by this act, applies only to:**

- (1) federally qualified equity investments initially made; and**
- (2) taxable years beginning;**

**after December 31, 2007."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 165 as printed March 16, 2007.)

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